BEST BUY™

April 14, 2010

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Submitted via E-Mail to

Re: Docket No. R-1384 – Regulation Z – TILA/CARD Act

Dear Ms. Johnson:

On behalf of Best Buy Co., Inc., I appreciate the opportunity to provide comments to the Federal Reserve Board's (the Board) proposed amendments to Regulation Z implementing the Truth in Lending Act changes required by the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act).

With operations in the United States, Canada, Europe, China, Mexico and Turkey, Best Buy is a multinational retailer of technology and entertainment products and services with a commitment to growth and innovation. The Best Buy family of brands and partnerships collectively generates more than $49 billion in annual revenue and includes brands such as Best Buy; Best Buy Mobile; Audiovisions; The Carphone Warehouse; Future Shop; Geek Squad, Jiangsu Five Star; Magnolia Audio Video; Napster; Pacific Sales; The Phone House; and Speakeasy. Approximately 180,000 employees apply their talents to help bring the benefits of these brands to life for customers through retail locations, multiple call centers and Web sites, in-home solutions, product delivery and activities in our communities. Community partnership is central to the way we do business at Best Buy. In fiscal 2010, we donated a combined $25.2 million to improve the vitality of the communities where our employees and customers live and work.

With our financial services partners – among them, HSBC and JPMorganChase – we offer millions of consumers a wide variety of credit options every year. We strongly support the need for our customers to fully understand the terms and conditions of all credit offerings and, as such, we value the Board's commitment to consumer protection and to practical and workable solutions for the implementation of the regulations. Additionally, we are grateful for the opportunity to provide comments on the proposed rules set forth in the March 15th *Federal Register,* in particular, comments regarding how the proposed rules relating to reasonable and proportional fees may impact the retail sector and retail credit card programs.

Fees are an important contractual part of making a credit relationship functional and viable. As noted in the Board's commentary, fees are necessary to cover costs and to encourage the keeping of contractual promises between the parties. It is also important to note that not all credit relationships are the same. Major bank card programs are very different from most retail based "private label" programs, which are in turn very different from a secured loan for an automobile. These differences make it difficult to establish a "one size fits all" approach; accordingly, we agree with the Board's proposed rules commentary that cost, deterrence, conduct, and simplicity must all be taken into consideration when regulating fees and when establishing a safe harbor for those fees.

A key focus for Best Buy is to ensure that the safe harbor provision regarding fees (§226.52(b)(3)) does not inadvertently damage retail private label programs or harm consumers. As earlier commentary recognized, it is the intent of Congress and the Board to ensure that the proposed rules do not have unintended adverse consequences for these types of programs. Retail private label programs rely on positive customer goodwill to ensure not only the success of the credit portfolio, but also the success of the retailer in general. As a result, these programs traditionally have fewer fees and are designed to be transparent, such that the retail private label programs seem to closely align with the Board's stated intent of balancing cost, deterrence, and ease of understanding. Given the desire to limit the number and types of fees involved in traditional retail programs, any safe harbor provision that sets the benchmark artificially low could inadvertently result in a further limitation of credit or increased consumer pricing in other areas, either of which outcomes would place additional burdens on a struggling economy as well as hinder the Credit CARD Act's intended benefits.

In order to ensure that the safe harbor amount is set at a sustainable level that works across multiple program types, we concur with the Board's premise that a safe harbor be established at the greater of a flat dollar amount or five percent of the required minimum payment. With respect to the establishment of a flat dollar amount, we recommend that it is based upon a reasonable market-based benchmark and that a composite of multiple lending programs be used as a proxy. The Board calls out several benchmarks which it considered, including fees charged by major issuers ($32-$37), penalty fees charged by depository institutions ($26), and fees charged by credit unions ($20). While the Board also considered state and local laws as well as the United Kingdom as a proxy, we believe that those government based benchmarks may not necessarily reflect economic based tradeoffs between cost and deterrence but rather may be a result of political outcomes and therefore may not be good proxies.

With respect to credit unions being used as a benchmark for the establishment of a safe harbor amount, we note that credit unions tend to be not for profit organizations and also do not lend to as wide of a base of consumers as do more traditional lenders. Credit unions are typically able to control risk (and hence cost/deterrence) considerations since they are geared toward membership based activities. Alternatively, the depository institution and major issuer benchmarks appear to provide a broader based proxy. The depository institutions compete aggressively based upon fees and, as such, may be a good "low water mark" in terms of sustainable competitive fees which by nature must balance cost and deterrence concerns. Similarly, the major issuer range of $32-$37 would represent a benchmark that accounts for a wide range of programs aimed at multiple consumer segments, providing perhaps the most diverse comparison. This diversity also translates into increased cost/deterrence concerns and should represent the higher end of the range. Since ultimately this range must be simplified in order to provide an easily implementable safe harbor, we would respectfully submit that an amount of approximately $30 would provide a reasonable and appropriate starting point as a flat safe harbor amount.

This amount would also reasonably reflect the current position of many retail private label programs and, as such, provides further support that this amount would provide a balance between consumer, issuer, and regulatory interests. As previously noted within this letter, retail programs by nature must balance the interests of different stakeholders. Most private label programs today are managed between a retailer and an issuing partner. Since the retailer has a need to ensure that its customers receive the best possible products at the lowest possible prices in order to be competitive in the marketplace, retail programs may provide the best proxy for finding the desired balance between cost and deterrence considerations while still ensuring that the ultimate fee is set at the lowest reasonable level. For these reasons, we believe a safe harbor in the $30 range would provide that balance.

Again, we appreciate the thoughtful approach of the Board on this issue and recognize the difficulty in trying to balance the intent of the legislation with practical implementation. We generally agree with the majority of the proposed rules and would simply reiterate the importance of establishing a safe harbor amount for fees at a level that is reasonable for a diversity of products and providers. We believe that an amount of approximately $30 is generally consistent with the requirements in §226.52(b)(1).

Thank you again for the opportunity to provide comments. Please contact me at 612.291.2128 or via email (dan.olstad@bestbuy.com) if you have any questions.

Sincerely,

Dan Olstad
Senior Director, Best Buy Financial Services